

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 1930 - HB 2352

February 15, 2016

SUMMARY OF BILL: Creates the *Fans Anti-Counterfeit Ticket Act* (FACT) for the purpose of regulating the business of reselling tickets of admission to places of entertainment. Defines a “ticket broker” as any person or persons involved in the business of reselling tickets to places of entertainment. Such definition does not include any person selling less than 100 tickets in any one-year period or any person operating a website, software application for a mobile device, or other digital platform whose primary business is to serve as an online marketplace whereby third parties can buy and sell tickets, and whose primary business is not engaging in the reselling of tickets.

Requires any ticket broker to register with the Department of Commerce and Insurance (TDCI) within 180 days of the effective date of the FACT Act or within 30 days of commencing business as a ticket broker in this state, whichever is later. Ticket brokers must pay an annual registration fee that must be sufficient to offset the costs of the TDCI in regulating the business of reselling tickets. Upon registration, the TDCI will issue a unique registration number to each ticket broker and publish a list of all registered ticket brokers and their unique registration numbers on the Department’s website. Prohibits any person from registering who has been convicted of a felony of which the Commissioner of the TDCI determines will reflect poorly on the felon’s ability to adhere to the requirements of the FACT Act.

Requires ticket brokers to disclose certain details to a consumer regarding the ticket of interest and personal identification of the broker. An online marketplace is required to facilitate this disclosure and provide additional details regarding the price of the ticket and the refund policy applicable to the transaction.

Establishes that nothing shall prohibit the resale or gifting of a ticket, and that the FACT Act shall not apply to any sale of tickets pursuant to the Tennessee Education Lottery or the sale of tickets made by any convention and visitors bureau, any hotel or other place of public accommodation or any operators of any tour conducted by motor coach or bus.

Establishes a new Class B misdemeanor offense for any violation that causes a consumer to be unable to purchase a ticket or for any violation of the FACT Act, which shall be punishable by fine only. Establishes that any person injured as a result of any interference with the operation of a ticket seller may file a criminal complaint with the district attorney general of the judicial district where the venue is located. A district attorney general may prosecute an alleged violation in any county in which the offense occurs.

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ESTIMATED FISCAL IMPACT:

Increase State Revenue –

\$60,600/FY16-17/Division of Consumer Affairs

\$100,800/FY17-18 and Subsequent Years/Division of Consumer Affairs

Increase State Expenditures –

\$60,600/FY16-17/Division of Consumer Affairs

\$100,800/FY17-18 and Subsequent Years/Division of Consumer Affairs

Assumptions:

- An effective date of January 1, 2017.
- According to the TDCI, the Division of Consumer Affairs (DCA) would need two additional positions to process and approve licenses.
- One additional ticket licensing technician and one additional regulatory board administrative assistant 2.
- A recurring increase in state expenditures of \$100,766 (salaries \$67,800 + benefits \$28,466 + phone/communications/network \$3,300 + supplies \$1,200).
- According to the Department, a rulemaking hearing and system updates to the comprehensive online regulatory and enforcement (CORE) computer systems will be required.
- The total one-time increase in state expenditures is estimated to be \$10,200 [office furniture \$4,000 + CORE system update \$2,400 (40 hours x \$60) + computers \$2,300 + rulemaking hearing \$1,500 (court reporter per diem and expenses \$500 + transcript copies \$1,000)].
- The two additional positions will be hired on January 1, 2017, the effective date of this act; therefore, one-half of the estimated recurring expenditures will be incurred in FY16-17. All one-time expenditures will be incurred in FY16-17.
- An increase in state expenditures for the DCA in FY16-17 of \$60,583 [$(\$100,766 / 2) + \$10,200$].
- A recurring increase in state expenditures for the DCA of \$100,766 in FY17-18 and subsequent years.
- This legislation requires ticket brokers to pay an annual registration fee that offsets the cost of administering this new regulatory program. As a result, it is assumed the DCA will implement a fee structure sufficient for recovering all costs associated with implementation and administration of the FACT Act. Therefore, the increase in state revenue to the DCA is estimated to be \$60,600 in FY16-17 and estimated to be \$100,800 in FY17-18 and subsequent years.
- This legislation does not require ticket brokers to pay any additional taxes greater than what is currently required by state law.
- There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.

IMPACT TO COMMERCE:

**Increase Business Expenditures - \$60,600/FY16-17
\$100,800/FY17-18 and Subsequent Years**

Assumption:

- Requiring ticket brokers in this state to register with the Department of Commerce and Insurance and pay annual registration fees will result in an increase in business expenses of \$60,600 in FY16-17 and \$100,800 in FY17-18 and subsequent years .

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/jdb